



**MINUTES FROM MEETING OF BANKING SUBCOMMITTEE  
OF THE CASH MANAGEMENT POLICY BOARD  
NOVEMBER 2, 2016**

A Meeting of the Banking Subcommittee of the Cash Management Policy Board was held on November 2, 2016, at 1:30 PM in the Conference Room of the Office of the State Treasurer (OST) Located at 820 Silver Lake Blvd., Suite 100, Dover, Delaware.

Subcommittee Members Represented or in Attendance:

Mr. Warren Engle, Chair, Banking Subcommittee  
The Honorable Ken Simpler, State Treasurer  
Ms. Lynda Messick

Subcommittee Members Not Represented or in Attendance:

Mr. John Flynn, Chair, Cash Management Policy Board  
The Honorable Thomas J. Cook, Co-Chair, Banking Subcommittee, Secretary, Department of Finance

Others in Attendance:

Mr. Frank Broujos, Deputy Attorney General, Department of Justice  
Mr. Steve McVay, Director of Investments and Cash Management, Office of the State Treasurer  
Mr. Jim DiDonato, Manager of Banking Services, Office of the State Treasurer  
Ms. Susan Steward, Policy Advisor, Office of the State Treasurer  
Ms. Martha Sturtevant, Executive Assistant to the State Treasurer

**CALLED TO ORDER**

Mr. Engle called the meeting to order at 1:30 PM and introductions were made around the table.

**APPROVAL OF THE MINUTES**

A MOTION was made by Ms. Messick and seconded by Mr. Simpler to approve the minutes from the meeting of the Cash Management Policy Board (Board), Banking Subcommittee (Subcommittee) on August 1, 2016.

MOTION ADOPTED UNANIMOUSLY.

**UPDATE ON CASH MANAGEMENT BANK COLLATERALIZATION**

Mr. McVay informed the Subcommittee on the status of cash management bank collateralization. Referencing the updated collateralization memo, Mr. McVay summarized the options for Tier 1 and Tier 2 banks. Mr. McVay explained methods across Tier 1 and Tier 2 banks varied, and a single method for collateralization is not feasible. In response, the Subcommittee remarked on the need for expertise in evaluating security risk options from respondents to the Special Counsel RFP.

Mr. Simpler suggested a memo be prepared by the Special Counsel for the Board outlining the risk(s) associated with the memo's referenced collateralization options.

#### **UPDATE ON THE SPECIAL COUNSEL RFP**

Mr. Simpler informed the Subcommittee on the RFP finalists for Special Counsel and added that they will be meeting with OST within 2 weeks. Mr. Simpler stated that he expects both finalists are qualified and OST would be prepared to accept a proposal by December. Mr. Broujos added that the DAG has assigned additional resources to finalize the Special Counsel RFP.

#### **UPDATE ON CURRENT BANKING CONTRACT NEGOTIATIONS**

##### *Merchant Services Contract*

Mr. DiDonato stated the Merchant Services contract was close to completion with Bank of America. Mr. Broujos cited concerns regarding language on liabilities and indemnification have delayed the finalized agreement; however, he was optimistic the contract would be signed by the end of November.

##### *Direct Deposit Contract*

Mr. DiDonato reported the Direct Deposit contract was not finalized and required the Subcommittee's attention given the recent events at Wells Fargo. Mr. DiDonato asked Ms. Steward for an update on Wells Fargo since the September revelations of the fraudulent banking and credit card accounts.

Ms. Steward reported that since September, several additional accusations against Wells Fargo have been reported. As of October, Wells Fargo was cited for non-disclosure of faulty loans to the Department of Housing and Urban Development (HUD), the illegal repossession of cars owned by members of the military, and overcharged various groups on student loans and homeowner appraisal fees. Ms. Steward cited Wells Fargo's costs in fines and anticipated settlement costs at approximately \$1.5 billion.

Ms. Steward reported that in response to these events, various actions have been taken by other states against Wells Fargo. Among them, California, Illinois, Washington, Connecticut, Massachusetts, and Ohio have ceased or contemplating ending specific operations with Wells Fargo for at least a year. Ms. Steward cited reputation and ethics were the leading concerns.

Finally, Ms. Steward updated the Subcommittee on the impact to Delaware residents and the State's portfolio as a result of Wells Fargo's fraudulent actions. OST met with Wells Fargo in October concerning the impact on Delaware. Mr. DiDonato informed the Subcommittee that Wells Fargo reported nearly 4,255 Delaware accounts were impacted by fraudulent activity. Wells Fargo could not provide further details, but has promised to share the third-party report upon completion with OST. In reference to the State's portfolio, Ms. Steward reported the accusations had impacted the S&P outlook for the stock for Wells Fargo. Although, the actual impact will not be realized until the fourth quarter earnings report is announced in January.

The Subcommittee considered the impact of Wells Fargo on Delawareans and queried under the circumstances, if there should be an execution, delay or dissolution of the contract award for Direct Deposit. The Subcommittee discussed potential risk associated with continuing negotiations. The Subcommittee discussed the two finalists as alternatives to Wells Fargo.

The Subcommittee agreed to bring the matter of continuing negotiations with Wells Fargo for Direct Deposit services before the Board for consideration.

### **UPDATE ON THE BANKING SERVICES TASK FORCE**

Mr. DiDonato informed the Subcommittee that the Banking Services Task Force (Task Force) has been convened to evaluate banking services and assess satisfactory delivery of those services provided to State agencies. In referencing the documented timeline provided to the Subcommittee, Mr. DiDonato stated that follow up surveys had been sent out to the Task Force members and will be incorporated into a Scope of Services document for a Banking Services Consultant RFP.

Referencing the documented timeline provided to the Subcommittee, Mr. McVay reviewed key dates for the Task Force timeline and proposed consultant study. Mr. McVay requested, contingent upon the recommendations and engagement of a banking consultant, the Subcommittee approve recommending the extensions of six Banking Services contracts (BNYM Electronic Collections, PNC Disbursements, Citizens OTC Collections, PNC Department of Labor lockboxes (2) and the JPM Chase lockbox for Corporations) that are dated to expire December 31, 2017. Mr. McVay requested the extensions be made for one year, thereby allowing time for consultant engagement, research and recommendations.

The Subcommittee agreed to bring the matter of a single-year extension of the six banking contracts before the Board for consideration.

### **UPDATE ON OUTSIDE BANK ACCOUNTS**

Mr. McVay provided an update on the Outside Bank Accounts opened with the State's EIN number. He reported that there are 350 bank accounts totaling \$56 million. The accounts that were opened with improper use will be closed and told to file for their own EIN. However, current accounts opened for allowable uses per the Budget and Accounting Manual if not currently at one of the four State approved banks, will be moved.<sup>1</sup> Mr. McVay reported a delay in account transitions resulting from an internal staffing change. However, he hoped that implementation would commence in early January/winter given potential staffing additions by late December.

### **OLD BUSINESS**

#### *Vendor Management*

Mr. McVay thanked Ms. Messick for documents shared on best practices for vendor management. OST has reviewed these documents, and will review incorporation of active vendor management into the proposed Investment Policy Statement. Furthermore, Mr. McVay commented that vendor management will be included within the banking consultant RFP scope of services. He acknowledged that the Wells Fargo situation has underscored the importance of proactively monitoring vendors that make up the State's banking architecture.

### **PUBLIC COMMENTS**

No members of the public present for comment.

### **ADJOURNMENT**

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<sup>1</sup> Permissible uses for maintaining an Outside Bank Account are referenced in the Office of Management and Budget State of Delaware Budget and Accounting Manual Chapter 7: <http://budget.delaware.gov/accounting-manual/documents/chapter07.pdf?ver=0714>

A MOTION was made by Ms. Messick and seconded by Mr. Simpler to adjourn the meeting of the Banking Subcommittee of the Cash Management Policy Board at 3:07 PM.  
MOTION ADOPTED UNANIMOUSLY.

Respectfully submitted,

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Warren Engle  
Chair for the Banking Subcommittee